THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable William H. Seals, Jr., Circuit Court Judge

Case No. 2017-CP-10-6176
Appeal No. 2019-001101

Samantha L. Antley, ... Respondent,

v.

Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar
and Preston Yelverton, Defendants,

of Whom,

Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar is the .....Appellant.

RETURN IN OPPOSITION TO MOTION TO SUPPLEMENT THE RECORD UNDER SCRCP 60(b)

Pursuant to Rule 240(e), SCACR, Appellant Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar hereby opposes Respondent Samantha L. Antley's Motion for Leave to Supplement the Record Under SCRCP 60(b) ("Motion"). Respondent's Motion is a misguided hybrid attempt to add to the Record on Appeal that is not proper under either this Court's Appellate Court Rules or the South Carolina Rules of Civil Procedure and should be denied. Furthermore, Respondent's characterization of the alleged "newly found evidence" is inaccurate and does not warrant granting her Motion.

First, it is both incongruous and improper for Respondent to seek relief from the Order of Judgment pursuant to Rule 60(b), SCACR, as she prevailed in the forum below. The Order of

Judgment, filed March 26, 2019, awarded Respondent both actual and punitive damages totaling $882,035.00. (Exh. A). Plaintiff is not seeking relief from the Order of Judgment, the only relief available under Rule 60(b) but, instead, is seeking improperly to bolster her position on appeal via a rule of civil procedure that does not grant a respondent (the prevailing party below) the opportunity to add material to the record.[1] Instead, Rule 60(b) provides, in pertinent part that "the court may relieve a party or his legal representative from a final judgment ... for the following reasons: (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud, misrepresentation, or other misconduct of an adverse party." Rule 60(b), SCRCP. Neither subsection applies here and Respondent's Motion should be denied.

As Respondent apparently recognizes, only materials that were "presented to the lower court or tribunal" are properly included in the Record on Appeal. Rule 210(c), SCACR. Respondent acknowledges that the material she wishes to add to the record is not part of the record in this case. However, that is the direct result of Respondent moving for and obtaining a default judgment against Appellant. In pursuing a default judgment, Respondent consciously chose to forgo discovery. She now wants the benefit of material that she obtained in discovery in a separate matter, a declaratory judgment action pending in the United States District Court, for purposes of this appeal. Had Respondent wished to fully vet the issues involved in this case, she simply could have agreed to set aside the entry of default or to Appellant's request for relief from judgment so that this matter could have proceeded to trial. Instead, she forcefully opposed both attempts by Appellant to allow this case to proceed through discovery and trial, (*see* Exhs. B &

[1] *Cf., Saro Invs. v. Ocean Holiday P'ship*, 314 S.C. 116, 125 n.9, 441 S.E.2d 835, 841 n.9 (Ct. App. 1994) (noting that Rule 60, SCRCP, is "an improper vehicle for obtaining a modification of a final judgment based on a change in or a mistaken understanding of the law").

C), and must accept the consequences of the procedural status of this case. In other words, relief is not appropriate under Rule 60(b)(2) because Respondent cannot show that, had she proceeded with discovery with due diligence up to and including a trial, she could not have obtained the material she now wishes to present to the Circuit Court.

In addition, relief is not appropriate under Rule 60(b)(3). Although Respondent hints at vague "potential fraud, misrepresentation, or misconduct," the "newly found" evidence she seeks to add to the case does not negate the argument that Respondent has failed to produce any objective evidence that Mason Law Firm advised Respondent's counsel that they were refusing to accept service of the Amended Complaint in this case. In her oppositions to Appellant's motions to set aside the default and for relief from the Order of Judgment, Respondent asserted that the alleged refusal to accept service was documented in an email. (*See* Exh. B, p. 7 & Exh. C, p. 7). However, no such email has ever been produced by Respondent because no such email exists. Respondent's reliance on an undated email between Mr. Hibri and the insurance adjuster – not sent to or copied to her counsel – is misplaced. In fact, that email is evidence that no attempt had been made to serve Mr. Hibri and that no discussion had ever taken place between Mr. Hibri and Respondent's counsel concerning service.

Ironically, Respondent relies on *Raby Constr., L.L.P. v. Orr*, 358 S.C. 10, 594 S.E.2d 478 (2004), a case that upheld denial of a Rule 60(b) motion based in part on alleged fraud, misrepresentation or other misconduct of an adverse party. *Raby* makes clear that the only type of fraud that is cognizable under Rule 60(b) is extrinsic fraud, or "fraud that induces a person not to present a case or deprives a person of the opportunity to be heard." 358 S.C. at 19, 594 S.E.2d at 483. "Intrinsic fraud, on the other hand, is fraud which misleads a court in determining issues and induces the court to find for the party perpetrating the fraud." *Id.* Respondent cannot

plausibly allege extrinsic fraud – she brought her case, she alleged she had objective proof in the form of emails that The Mason Law Firm refused to accept service on behalf of Appellant, and any deprivation of the opportunity to be heard is the result of Respondent's successful push for a default judgment.

Finally, despite Respondent's unfounded allegations of "potential fraud, misrepresentation, or misconduct," the Circuit Court did not find in Appellant's favor but, instead, ruled in favor of Respondent at every turn. In all honesty, Respondent cannot credibly claim to be seeking relief from the Order of Judgment in this case – an order that awarded her $882,035.00. Appellant has been unable to locate, and Respondent cannot produce, a single case where the prevailing party below moved successfully under Rule 60(b) during the pendency of an appeal, simply to supplement the Record.

CONCLUSION

For all the reasons stated herein, this Court should deny Respondent's Motion and order her to file her Initial Brief in due course.

Respectfully submitted,

April 23, 2020

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2017-CP-10-6176
	)	
SAMANTHA L. ANTLEY,	)	
	)	
Plaintiff,	)	**ORDER OF JUDGMENT**
	)	
vs.	)	
	)	
DART SHELTER, LLC d/b/a THE SHELTER KITCHEN & BAR and PRESTON YELVERTON,	)	
	)	
Defendants.	)	

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JULIE J. ARMSTRONG
CLERK OF COURT

HEARING DATE: March 13, 2019

PRESIDING JUDGE: The Honorable William H. Seals, Jr.

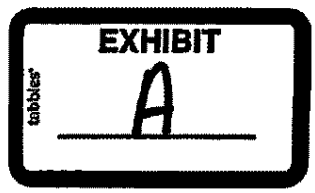
PLAINTIFF'S ATTORNEYS: Daniel S. Slotchiver, Esq.
Edward L. Phipps, Esq.
Andrew J. McCumber, Esq.

DEFENDANT'S ATTORNEYS: Benjamin B. Davis, Esq.
Mark A. Mason, Esq.
Salah H. Hibri, Esq.

THIS MATTER comes before this Court following an Entry of Default and a Motion for a Damages Hearing Pursuant to Rule 55(b)(2) of the South Carolina Rules of Civil Procedure ("SCRCP").

The Summons and Complaint in this action were filed on December 4, 2017. An Amended Summons and Complaint were filed on December 11, 2017. Defendant Dart Shelter, LLC was served via its registered agent on or about December 12, 2017. The Affidavit of Service was filed on January 11, 2018.

Having failed to answer or otherwise defend the Complaint, Defendant was declared in



default by Order of this Court dated February 5, 2018. Thereafter, Defendant moved to set aside the default. Judge D. Craig Brown denied Defendant's motion after a hearing and extensive briefing was conducted with respect to same. Judge Brown's denial is via Order Denying Defendant's Motion to Set Aside Default dated January 15, 2019. Defendant Yelverton was dismissed from this action by stipulation on April 10, 2018. Notice of the damages hearing was sent to all parties by the Court. With the Defendant in Default and having been duly served with all pleadings as well as the notice of this hearing, this matter is now properly before this Court to determine Plaintiffs' damages as prayed for in the Complaint.

The Plaintiff, Samantha L. Antley, was present and represented by Daniel S. Slotchiver and Andrew J. McCumber, Esq. of Slotchiver & Slotchiver, LLP and Edward L. Phipps, Esq. of the Phipps Law Firm, LLC. The Defendant, Dart Shelter LLC, was represented by Benjamin B. Davis, Esq. of McAngus, Goudelock, and Courie, LLC, as well as other lawyers who did not take an active role in the hearing. A variety of evidence was presented during the hearing, including live testimony by four (4) witnesses.

Dr. Craig Rowin was tendered, without objection, as an expert in plastic surgery. Dr. Rowin testified as to the Plaintiff's previous and future medical treatment in connection with her injuries, as well as the nature of the procedures, recovery time, and pain involved with the same. The Plaintiff also testified, and provided extensive testimony about her damages, including the circumstances of the underlying incident giving rise to her injuries, the nature of her injures, the manner in which the injuries interfered with her normal activities, the pain and suffering she endured and continues to endure. Finally, Mr. B.J. Kale, a SLED certified security officer and owner of Trifecta Security Group, LLC, who previously was a contractor for the Shelter, providing security services prior to the incident at issue. Mr. Kale testified regarding proper protocol for

handling confrontations involving intoxicated persons. Mr. Kale testified that the manner in which the incident giving rise to these claims was handled was in contravention to industry standards. Further, Mr. Kale testified that he personally observed a number of incidents during his tenure at The Shelter, and that the number of incidents presented during the hearing was far in excess of any other of his clients.

The Defendant called one witness, Mr. Thomas Berry, one of the owners of Dart Shelter, LLC. Mr. Berry was examined regarding steps his business undertook to protect the safety of its patrons. Also submitted for consideration was the Complaint, the Affidavit of Preston Yelverton, photographs of Plaintiff's injuries, a complete copy of her various medical records and billing statements relative to Plaintiff's treatment and care, a copy of every 911 dispatch to the Shelter Bar & Grill over a three-year period, and a copy of the S.C. Life Expectancy Table (S.C. Code Ann. § 19-1-150). Having considered the entire record of this case, which is included herein and made a part hereof, I make the following Findings of Fact and Conclusions of Law as required by Rule 52, SCRCP.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

"[B]y suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and have conceded liability." *Austin v. Specialty Transp. Servs., Inc.*, 358 S.C. 298, 319 (Ct. App. 2004) (quoting *Roche v. Young Bros.*, 332 S.C. 75, 81 (1998)). Since the Defendant was found in default, this Court only considered the damages in this case. "The purpose of actual or compensatory damages is to compensate a party for injuries suffered or losses sustained. The goal is to restore the injured party, as nearly as possible through the payment of money, to the same position he or she was in before the wrongful injury occurred." *Clark v. Cantrell,* 339 S.C. 369, 378 (2000). In this regard, the Plaintiff is a very attractive young female.

The Plaintiff is a college graduate and works at a boutique/salon whereby appearance is most likely important to her career. On or about September 25, 2015, the Plaintiff was severely beaten which resulted in permanent damages. More than three years after the event, a curvature to the Plaintiff's nose is clearly visible, as is a scar on her face, both of which are due to the attack. The Plaintiff states that she experiences pain and suffering daily. The record shows the Plaintiff incurred medical bills in the amount of $13,395.00, as well as future medical bills of $18,010.00 for total medical bills of $31,405.00. This Court also considered that the Plaintiff has a life expectancy of 55 years and may suffer pain and disfigurement for the reminder of her life. Thus, the Court awards actual damages in the amount of $432,025.00.

Further, after a consideration of all of the evidence presented, and analyzing the Defendant's conduct using the factors as outlined in *Gamble v. Stevenson* (305 S.C. 104, 406 S.E.2d 350 (1991)) and S.C. Code Ann. § 15-32-520, this Court is of the opinion that a substantial amount of punitive damages is warranted. In that regard, the Court finds the Defendant's conduct was willful reckless, and wanton, and that the Plaintiff carried her burden of proof regarding punitive damages. In this regard, the Court finds the Defendant very culpable in that the Defendant removed the Plaintiff and her attacker from the premises knowing that they were intoxicated and that a violent altercation was developing. Additionally, the Defendant did nothing to separate the parties and prevent or deescalate a violent situation. The duration of this hostile event took place during the time the Plaintiff was in the bar and continued even after they were ejected from the bar. The Defendant was aware of this problem and continued to overserve the individuals involved in this altercation, which was a major contribution to the violent attack suffered by the Plaintiff. Regarding past conduct and as outlined above, B.J. Kale testified that he personally observed a number of incidents similar to this in the past at the bar and that the number of incidents at the bar

was in excess of any of his other clients. Furthermore, this Court finds that a substantial award of punitive damages in this case will likely deter other similar businesses in the area as the verdict gets disseminated into the business community. Also, the award by this Court in punitive damages is reasonably related to the harm and not disproportionate to the actual damages. Furthermore, this Court opined from the record that the Defendant is able to pay the verdict. However, this Court is troubled by the fact that the Plaintiff continued to go to the bar several times even after this event occurred. The Court takes this factor into account as well as the above factors in determining punitive damages, thus hereby awarding punitive damages in the amount of $450,000.00, for a total damages award of $882,025.00.

BASED UPON THE FOREGOING,

IT IS ORDERED, ADJUDGED and DECREED that the Plaintiff, Samantha L. Antley, is hereby awarded judgment against the Defendant, Dart Shelter, LLC, in the amount of **$432,035.00** in actual damages; **$450,000.00** in punitive damages for a total judgment in the amount of **$882,035.00**.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Clerk of this Court shall enter judgment in the foregoing amount against Defendant Dart Shelter, LLC, in the Judgment Rolls of Charleston County, South Carolina.

AND IT IS SO ORDERED!

The Hon. William H. Seals, Jr.
Presiding Judge
Court of Common Pleas for the Ninth Judicial Circuit

March 22, 2019

Charleston County, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2017-CP-10-6176
Samantha L. Antley,	)	
	)	
Plaintiff,	)	**MEMORANDUM IN OPPOSITION TO DEFENDANT DART SHELTER, LLC d/b/a THE SHELTER KITCHEN & BAR'S MOTION FOR RELIEF FROM A JUDGMENT PURSUANT TO RULE 60(b), SCRCP**
v.	)	
	)	
Dart Shelter, LLC D/B/A The Shelter Kitchen & Bar and Preston Yelverton,	)	
	)	
Defendant.	)	

The Plaintiff, Samantha L. Antley (hereinafter "Plaintiff") submits this Memorandum in Opposition to Defendant Dart Shelter, LLC's (hereinafter "Defendant" or "The Shelter") Motion for Relief from a Judgment Pursuant to Rule 60(b), SCRCP. As a prefatory matter, this Memorandum in Opposition will be, by in large, a restatement of Plaintiff's Memorandum in Opposition to Defendant's Motion to Set Aside Default pursuant to Rule 55(c) as virtually no new arguments have been raised in the present motion. Further, Plaintiff would respectfully request this Court to review the pleadings filed by both parties in connection with the 55(c) motions for relevant background information.

FACTUAL & PROCEDURAL HISTORY

This case arises out of a violent attack which occurred at Defendant's premises on or about September 25, 2015 in which Plaintiff suffered serious and permanent injuries. After settlement negotiations proved unsuccessful, Mr. Edward L. Phipps, Esq. (hereinafter "Mr. Phipps) contacted The Shelter's private counsel, Mr. Salah Hibri, Esq. (hereinafter "Mr. Hibri") and informed him that Plaintiff was preparing to file suit. Mr. Phipps inquired whether Mr. Hibri's firm would be defending the present action and whether they would accept service of the Summons & Complaint. Mr. Hibri informed Mr. Phipps that his firm would not be defending The Shelter and that Mason Law Firm would be "out of the case unless the carrier refuses to defend." Mr. Hibri also informed Mr. Phipps

that they would not accept service, that Plaintiff would need to serve the Defendant directly, just like any other lawsuit and then the carrier could appoint defense counsel.

During this conversation, Plaintiff's Counsel also requested a copy of the Defendant's insurance policy to determine limits and exclusions of coverage. In accordance with this conversation, Mr. Hibri requested a copy of The Shelter's insurance policy to provide to Plaintiff. Plaintiff proceeded to file the present action on December 4, 2017 by the filing of a Summons and Complaint. Plaintiff then received a copy of the insurance policy from Mr. Hibri. At this time, Mr. Phipps informed Mr. Hibri that Plaintiff had already filed a Complaint and would have to amend based upon information contained in insurance policy. Mr. Phipps again asked whether Mr. Hibri's firm would accept service of the Amended Summons and Complaint. For a second time, Mr. Hibri indicated that his firm would not accept service, and that Plaintiff would need to serve the Defendant directly.

Plaintiff subsequently filed an Amended Complaint on or about December 11, 2017, and pursuant to Mr. Hibri's instructions, Plaintiff proceeded to serve The Shelter directly. A copy of the Amended Summons & Complaint was served pursuant to S.C. Rules of Civil Procedure 4(d)(3) and 4(d)(8) by mailing a copy of via Certified Mail to the registered agent of The Shelter. On or about December 22, 2017 Defendant's Registered Agent, Ashley Berry, accepted service of the same as evidenced by the signed Certified Mail Return Receipt. On or about January 30, 2018, having received no Answer or responsive pleading from the Defendant, Plaintiff filed a Motion for Entry of Default and requested a Damages Hearing for same. On February 5, 2018, this Court issued an entry of default. Plaintiff served a copy of Plaintiff's Motion for Default along with the Notice of Damages hearing to Defendant by mailing the same to Defendant's registered agent.

On March 8, 2018, over thirty days after being placed in default, Defendant filed a Motion to Set Aside Default. On or about December 14, 2018, a hearing was held with respect to the Defendant's Motion, and the Motion was subsequently denied by Order of the Court dated January 15, 2019. A

damages hearing was held in connection with this matter on or about March 13, 2019 wherein Plaintiff was awarded a judgment in the amount of $882,035.00. Defendant subsequently filed the present motion pursuant to Rule 60(b), SCRCP.

LEGAL ARGUMENTS

Defendant seeks relief from a default judgment pursuant to Rule 60(b), SCRCP. Rule 60 allows the circuit court to relieve a party from a judgment for "mistake, inadvertence, surprise, or excusable neglect...." Rule 60(b)(1), SCRCP. "In determining whether a default judgment should be set aside under Rule 60(b)(1), '[t]he promptness with which relief is sought, the reasons for the failure to act promptly, the existence of [a] meritorious defense, and the prejudice to the other parties are relevant.' *New Hampshire Ins. Co. v. Bey Corp.*, 312 S.C. 47, 50, 435 S.E.2d 377, 379 (Ct. App. 1993) *Hill v. Dotts*, 547 S.E.2d 894, 345 S.C. 304 (S.C. App. 2001). Defendant's motion does not directly dispute the validity of service on the Defendant, however, Plaintiff will first show the Court that service of the Defendant was properly effectuated before turning to the analysis of 60(b) factors.

a. Plaintiff properly served Defendant pursuant to the South Carolina Rules of Civil Procedure.

The South Carolina Rules of Civil Procedure govern the service of process in a civil action. See, Rule 4, SCRCP. For a corporation to be served properly "a copy of the summons and complaint to *an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process...*" Rule 4(d)(3), SCRCP (*emphasis added*). Service of a summons and complaint upon a corporate defendant "may be made by the plaintiff... by registered or certified mail, return receipt requested and delivery restricted to the addressee." Rule 4(d)(8), SCRCP "Service is effective upon the date of delivery as shown on the return receipt." There is no requirement imposed by the Rules of Civil Procedure that Plaintiff provide courtesy copies of pleadings to insurance carriers.

There is no factual dispute that Defendant was properly served pursuant to the South Carolina rules of Civil Procedure. Plaintiff fulfilled the requirements of Rules 4(d)(3) and 4(d)(8). Berry, as the

authorized agent to receive service of process, signed for the certified mailing on December 22, 2017, thus effecting service on the Defendant. Further, there is no factual dispute that Defendant did not file a Motion to Set Aside Default till March 8, 2017. Finally, it is uncontroverted that nearly 300 days passed since being served with the Summons & Complaint, and the Defendant had still failed to file an Answer in this action, conditional or otherwise. The question before the Court then, is whether Defendant can satisfy the requirements under Rule 60(b) to relieve themselves from the final judgment entered by the Court.

b. Defendant cannot show surprise, inadvertence or excusable neglect where Defendant was properly served and failed to take any further action.

"Once papers have been served on an officer of the corporation, the corporation then has actual notice of the action." *Pioneer Util. Corp. v. Scott–Newcomb, Inc.*, 26 F.Supp. 616 (E.D.N.Y.1939). *quoting Bage, LLC v. Southeastern Roofing Co. of Spartanburg, Inc.*, 646 S.E.2d 153, 157, 373 S.C. 457, 466 (S.C. App. 2007). The rule "presupposes that an officer of the corporation will know what to do with the papers served and will see that the corporation takes steps to defend the action." 62B Am. Jur. 2d, *Process* § 268 (1990).

Our State's courts have held that a party's "failure to understand the legal process is a sufficient reason to excuse his tardy reply." *Hill v. Dotts*, 547 S.E.2d 894, 897, 345 S.C. 304, 310 (S.C. App. 2001). "[A] party has a duty to monitor the progress of his case. Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney." *Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (S.C. App.1988). "It is always a matter of regret that a party should not have his day in court. However, [where a party has been] duly served with the summons and complaint [it is their] duty to answer the complaint ... [and they] must suffer the consequence of [their] failure to answer." *Williams v. Ray*, 232 S.C. 373, 383–84, 102 S.E.2d 368, 373 (1958);

"The standard for granting relief from a default judgment under Rule 60(b) is more rigorous than the 'good cause' standard established in Rule 55(c). *Ricks v. Weinrauch*, 293 S.C. 372, 374, 360 S.E.2d 535, 536 (Ct.App.1987). Rule 60(b) requires a more particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or "other misconduct of an adverse party." Rule 60(b), SCRCP. The different standards under the two rules underscore the clear intent to make it more difficult for a party to avoid a default once the court has entered a judgment, which carries greater finality, and often occurs later than, a clerk's entry of default. Proof as to any one of the Rule 60(b) factors is sufficient to show 'good cause.' *Sundown v. Intedge Industries*, 681 S.E.2d 885, 383 S.C. 601 (S.C., 2009)

In the case at bar, Defendant has already failed to prove the **less rigorous** "good cause" standard. The Rule 60(b) Motion focuses almost entirely on the alleged "misconduct" of Plaintiff's Counsel, which was previously addressed and ruled upon by the Court in connection with the Rule 55 motion, and the Court has already found the Defendant wanting in proof of the same.

Defendant argues that their registered agent was "confused about what to do with the letter from Plaintiff's counsel. The correspondence mailed to the Defendant on December 12, 2017 states "*enclosed for service upon you*, as registered agent of Dart Shelter, LLC, one (1) filed copy of the Amended Summons and Complaint." *See, December 12, 2017 Correspondence to The Shelter* (attached hereto as **Exhibit A**) (*emphasis added*). This correspondence contained the filed and signed Amended Summons, along with a filed and signed Amended Complaint. A cursory inspection of the documents would have revealed they were different than any the previous documents received and required further action on the part of Defendant.

The mere fact that Defendant's registered agent did not bother to read the documents does not excuse their neglect in failing to file an Answer to the action. Defendant either wholly failed to review the certified mailing sent on December 12, 2017 or simply made an assumption regarding their

contents. Neither such action qualifies as excusable neglect or inadvertence sufficient to set aside a default judgment.

As previously cited in Plaintiff's Memorandum in Opposition to Defendant's Rule 55 Motion, the assertion that the manager's failure to forward the documents to the carrier or counsel based upon their alleged confusion or assumption regarding the contents of Plaintiff's December 12, 2017 correspondence would be more believable had it been solely limited to this case. However, Plaintiff is informed and believes that this was not the only lawsuit which Defendant failed to Answer during this same period of time. Just six days after Plaintiff's effected service of their Complaint in the present action, Defendant's registered agent was personally served with a Summons & Complaint in a separate, unrelated matter *Estate of W. Detyens III v. Dart Shelter, LLC*, 2017-CP-10-6425, In that action, the Defendant failed to answer until February 23, 2018. Plaintiff would contend that Berry was negligent and dilatory in providing the documents to their carrier and/or counsel in both the *Detyens* matter, and the present matter.

Regardless of the reason for this conduct, the registered agent and officer of the corporation was put on notice that the action had been instituted. Once the Defendant had duly served with the summons and complaint [it is their] duty to answer the complaint ... [and they] must suffer the consequence of [their] failure to answer." See, *Williams v. Ray*, 232 S.C. 373, 383–84, 102 S.E.2d 368, 373 (1958).

c. The promptness of Defendant's motion for relief.

While Plaintiff contends that Defendant failed to move promptly for relief from default under Rule 55 motion, and in their failure to file an Answer, it is without question that Defendant's did timely make the present motion. Accordingly, unless this Court deems it proper to review Defendant's previous failures to promptly move for relief in connection with this case, Plaintiff will not address the promptness factor under Rule 60(b).

d. Plaintiff's Counsel did not engage in any "misconduct" which would support setting aside the default judgment.

The bulk of Defendant's arguments in their Rule 60(b) motion center around the alleged misconduct of Plaintiff's counsel in connection with this matter. In their previous Rule 55 motion, Defendant even went so far as to argues that Plaintiff's Counsel violated their ethical obligations under Rule 4.2 of the Rules of Professional Conduct—an issue which continues to Plaintiff highly dispute.

The Rules of Civil Procedure required that Plaintiff's Counsel serve the Defendant by mailing the Summons and Complaint to the Defendant directly—not to their "private attorney", nor to their insurance carrier. Secondly, Plaintiff's counsel, during settlement negotiations, was informed by Mr. Hibri on several occasions that the insurance carrier would retain counsel for The Shelter and that the Mason Law Firm would continue only in their capacity as "private counsel" for The Shelter.

Both in their emails to Plaintiff's Counsel, and in telephone conversations with Mr. Phipps, Mr. Hibri confirmed that Mason Law Firm would not going to be representing The Shelter as defense counsel in connection with this litigation unless the carrier refused to defend the action. Further, Plaintiff served their Complaint on the Defendant per Mr. Hibri's instructions when asked, on two separate occasions, whether Mason Law Firm could accept service on behalf of The Shelter. Mason Law Firm appears to take the position that they were "wholly unaware" that Plaintiff intended to, or had actually, filed suit—a position that appears especially preposterous in light of the fact that Mr. Phipps informed Mr. Hibri of this fact during their conversation when he obtained a copy of the insurance policy from Mr. Hibri. This position was confirmed in writing to Defendant by way of an email dated February 27, 2018. The first time this conversation was ever disputed was in an Affidavit submitted by Mr. Hibri on behalf of the Defendant, nearly one year after the above-referenced email was sent; after default was entered; after memorandums had been submitted by all parties; and, after oral arguments were heard in connection with the hearing on Motion to Set Aside Default.

Based upon these representations made by Mason Law Firm to Plaintiff's Counsel regarding their role in the case moving forward, Plaintiff was left only with the option of serving Defendant as required under the rules. Defendant's own gross negligence in handling the action after that point cannot be excused by now imposing a requirement that a Plaintiff must send courtesy copies of pleadings to carriers and/or private counsel who have **declined to accept service on behalf of the Defendant**. Such a duty is not supported by the rules and law of this State and should not be a basis for excusing Defendant's failure to take the time to review important legal documents served upon their registered agent for service. The responsibility to forward these documents to their attorney, or to their carrier, rests solely with the Defendant—a responsibility they regrettably chose to shirk. Further, as the Court previously found in its Order denying the Motion to Set Aside Default that Defendant's counsel had actual knowledge of the Complaint, yet failed to follow up with Plaintiff at any point regarding the same or to look online and determine if the case had been filed. (See, **Exhibit A**)

CONCLUSION

In light of the facts and the governing precedents as outlined herein, Plaintiff respectfully requests that Defendant's motion to set aside default judgment pursuant to Rule 60(b), SCRCP be DENIED.

Respectfully submitted this **7th** day of **May, 2019.**

By:

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COUNSEL FOR THE PLAINTIFF

Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	Case No.: 2018-CP-10-6176
	)	2017
Samantha L. Antley,	)	
	)	
Plaintiff.	)	
vs.	)	**ORDER DENYING DEFENDANT'S MOTION TO SET ASIDE DEFAULT**
	)	
Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar and Preston Yelverton,	)	
	)	
Defendants.	)	

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THIS MATTER comes before the Court by way of Defendant Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar's (hereinafter "the Defendant") Motion to Set Aside Default filed on or about September 19, 2018 with regards to the above-referenced matter. A hearing regarding the same was held December 14, 2018. Present at the hearing were Counsel for the Plaintiff, as well as Counsel for the Defendant.

Both parties submitted memorandum in support of their respective positions prior to the hearing. Based upon the memoranda submitted by counsel, the arguments presented at the hearing, the record before the Court, and the Affidavits submitted by both parties, this Court makes the following findings of fact and law:

1. On or about December 4, 2017, Plaintiff filed the Complaint in the present action.
2. Shortly thereafter, Plaintiff's filed an Amended Complaint on or about December 11, 2017.
3. A copy of the Amended Summons and Complaint was served on the Defendant Dart Shelter, LLC, d/b/a The Shelter Kitchen & Bar pursuant to Rule 4(d)(8), SCRCP.
4. There is no dispute amongst the parties that Defendant Dart Shelter, LLC was properly served through their Registered Agent.

DCB 1/14

EXHIBIT A

5. On or about March 8, 2018, Plaintiff filed the Motion of Default and a Motion for a Damages Hearing.
6. As of the date of this Order, the Defendant has yet to file an Answer in this action, and as such, there is no evidence before this Court as to the existence of a meritorious defense. It has now been over one (1) year since the Amended Complaint was filed with the Court and served upon the Defendants, and during this entire period of time Defendant has failed to file an Answer with the Court. Accordingly, the record before this Court is devoid of any evidence which would indicate that the Defendant has any meritorious defense.
7. Defendant has failed to move expeditiously in seeking relief from the entry of default given that over a month passed from the date of default before Defendant filed a Motion to Set Aside, and over a year has passed without an Answer ever being filed in this action.
8. Defendant has not met the "good cause" standard to set aside the entry of default.
9. Defendant was properly served by and through its registered agent, an officer of the corporation, and accordingly Defendant was on notice of the suit and should have filed an Answer or other responsive pleading but failed to do so.
10. I do not find Defendant's argument persuasive that they confused an unsigned document clearly marked "DRAFT" with a clerk-stamped, signed copy of the Amended Summons & Complaint with a cover letter addressed to Defendant indicating that they were being served with legal documents requiring a response. Defendant, once

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on notice of the suit, should have immediately forwarded such to their insurance carrier or to their attorneys at The Mason Law firm to ensure that an Answer was timely filed.[1]

11. That statements were made to Counsel for the Plaintiff by members of Mason Law Firm, the private counsel for Defendant Dart Shelter, LLC, indicating that Mason Law Firm would not be defending the litigation of this matter unless the insurance carrier for Defendant refused to defend, and that said statements did not create a duty to serve Defendant by and through their private Counsel.

12. It appears from the evidence before this Court that the private counsel for Defendant had actual knowledge of the Complaint based upon his conversation with Mr. Phipps regarding obtaining a copy of the insurance policy and yet made no follow-ups to Plaintiff's counsel regarding the suit.

13. Moreover, based upon my review of all submissions by Plaintiff and Defense Counsel, I find that there arose no duty on the part of Plaintiff's Counsel to serve Defendant by and through their private counsel.

14. There was nothing wherein Defense Counsel unequivocally and affirmatively indicated they were representing the Defendant in this matter.

15. Accordingly, I find that it was proper for Plaintiff to serve the Defendant directly pursuant to the South Carolina Rules of Civil Procedure.

16. Plaintiff referenced these "refusal to accept service" statements by Counsel for the Defense in their written correspondence with Counsel for the Defense on or about February 27, 2018—no response was ever made by Defendant disputing the same.

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[1] *See* Sundown Operating Co., Inc. v. Intedge Industries, Inc., 383 S.C. 601, 681 S.E.2d 885 (2009).

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17. Plaintiff further referenced these conversations regarding the "refusal to accept service" in their Memorandum in Opposition to Defendant's Motion, as well as during oral arguments. At the Court's request, Counsel for the Plaintiff submitted an affidavit attesting to the same.

18. It is noted that the very first time Counsel for the Defense ever disputed that the "refusal to accept service" conversation even occurred was in their Reply Affidavit—not in their Memorandum in Support, nor during oral arguments—at the hearing Defendant never raised, objected to, or disputed Plaintiff's account of events. It was not until after receiving the Affidavit of Attorney Edward L. Phipps, which again specifically referenced the private counsel's refusal to accept service on behalf of the Defendant, that Defendant actually denied the existence of this conversation.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Defendant's Motion to Set Aside Default is DENIED and that this matter shall proceed to a hearing to determine the damages sustained by the Plaintiff.

IT IS SO ORDERED!

The Hon. D. Craig Brown
Presiding Judge, Court of Common Pleas
Ninth Judicial Circuit

January 11, 2019

Florence, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2017-CP-10-6176
Samantha L. Antley,	)	
	)	
Plaintiff,	)	**AMENDED MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO SET ASIDE ENTRY OF DEFAULT**
v.	)	
	)	
Dart Shelter, LLC D/B/A The Shelter Kitchen & Bar and Preston Yelverton,	)	
	)	
Defendant.	)	

The Plaintiff, Samantha L. Antley (hereinafter "Plaintiff") submits this Amended Memorandum in Opposition to Defendant Dart Shelter, LLC's (hereinafter "Defendant" or "The Shelter") Motion to Set Aside the Entry of Default.

FACTUAL & PROCEDURAL HISTORY

This case arises out of a violent attack which occurred at Defendant's premises on or about September 25, 2015 in which Plaintiff suffered serious and permanent injuries. After settlement negotiations proved unsuccessful, Mr. Edward L. Phipps, Esq. (hereinafter "Mr. Phipps) contacted The Shelter's private counsel, Mr. Salah Hibri, Esq. (hereinafter "Mr. Hibri") and informed him that Plaintiff was preparing to file suit. Mr. Phipps inquired whether Mr. Hibri's firm would be defending the present action and whether they would accept service of the Summons & Complaint. Mr. Hibri informed Mr. Phipps that his firm would not be defending The Shelter and that Mason Law Firm would be "out of the case unless the carrier refuses to defend." Mr. Hibri also informed Mr. Phipps that they would not accept service, that Plaintiff would need to serve the Defendant directly, just like any other lawsuit and then the carrier could appoint defense counsel.

During this conversation, Plaintiff's Counsel also requested a copy of the Defendant's insurance policy to determine limits and exclusions of coverage. In accordance with this

conversation, Mr. Hibri requested a copy of The Shelter's insurance policy to provide to Plaintiff. Plaintiff proceeded to file the present action on December 4, 2017 by the filing of a Summons and Complaint. Plaintiff then received a copy of the insurance policy from Mr. Hibri. At this time, Mr. Phipps informed Mr. Hibri that Plaintiff had already filed a Complaint and would have to amend based upon information contained in insurance policy. Mr. Phipps again asked whether Mr. Hibri's firm would accept service of the Amended Summons and Complaint. For a second time, Mr. Hibri indicated that his firm would not accept service, and that Plaintiff would need to serve the Defendant directly.

Plaintiff subsequently filed an Amended Complaint on or about December 11, 2017, and pursuant to Mr. Hibri's instructions, Plaintiff proceeded to serve The Shelter directly. A copy of the Amended Summons & Complaint was served pursuant to S.C. Rules of Civil Procedure 4(d)(3) and 4(d)(8) by mailing a copy of via Certified Mail to the registered agent of The Shelter. On or about December 22, 2017 Defendant's Registered Agent, Ashley Berry, accepted service of the same as evidenced by the signed Certified Mail Return Receipt. On or about January 30, 2018, having received no Answer or responsive pleading from the Defendant, Plaintiff filed a Motion for Entry of Default and requested a Damages Hearing for same. On February 5, 2018, this Court issued an entry of default. Plaintiff served a copy of Plaintiff's Motion for Default along with the Notice of Damages hearing to Defendant by mailing the same to Defendant's registered agent.

On March 8, 2018, over thirty days after being placed in default, Defendant filed the present Motion to Set Aside Default.

LEGAL ARGUMENTS

Defendant seeks relief from the entry of default pursuant to Rule 55(c), SCRCP. Rule 55 allows the circuit court to set aside an entry of default if "good cause" is shown. While Defendant

does not directly address the actual service of Defendant, Plaintiff will first show the Court that service of the Defendant was properly effectuated before turning to the "good cause" analysis.

a. Plaintiff properly served Defendant pursuant to the South Carolina Rules of Civil Procedure.

The South Carolina Rules of Civil Procedure govern the service of process in a civil action. See, Rule 4, SCRCP. For a corporation to be served properly "a copy of the summons and complaint to *an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process...*" Rule 4(d)(3), SCRCP (emphasis added). Service of a summons and complaint upon a corporate defendant "may be made by the plaintiff... by registered or certified mail, return receipt requested and delivery restricted to the addressee." Rule 4(d)(8), SCRCP "Service is effective upon the date of delivery as shown on the return receipt." There is no requirement imposed by the Rules of Civil Procedure that Plaintiff provide courtesy copies of pleadings to insurance carriers.

There is no factual dispute that Defendant was properly served pursuant to the South Carolina rules of Civil Procedure. Plaintiff fulfilled the requirements of Rules 4(d)(3) and 4(d)(8). Berry, as the authorized agent to receive service of process, signed for the certified mailing on December 22, 2017, thus effecting service on the Defendant. Further, there is no factual dispute that Defendant did not file a Motion to Set Aside Default till March 8, 2017. Finally, it is uncontroverted that nearly 300 days since being served with the Summons & Complaint, Defendant has not filed an Answer in this action, conditional or otherwise. The question before the Court then, is whether there exists "good cause" sufficient to excuse Defendant's failure to Answer or otherwise plead in this action.

b. Defendant cannot show "good cause" to excuse their failure to respond to the action where Defendant was properly served and failed to take any further action.

"Once papers have been served on an officer of the corporation, the corporation then has actual notice of the action." *Pioneer Util. Corp. v. Scott–Newcomb, Inc.*, 26 F.Supp. 616 (E.D.N.Y.1939).

quoting Baye, LLC v. Southeastern Roofing Co. of Spartanburg, Inc., 646 S.E.2d 153, 157, 373 S.C. 457, 466 (S.C. App. 2007). The rule "presupposes that an officer of the corporation will know what to do with the papers served and will see that the corporation takes steps to defend the action." 62B Am. Jur. 2d, *Process* § 268 (1990).

Our State's courts have held that a party's "failure to understand the legal process is a sufficient reason to excuse his tardy reply." *Hill v. Dotts*, 547 S.E.2d 894, 897, 345 S.C. 304, 310 (S.C. App. 2001). "[A] party has a duty to monitor the progress of his case. Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney." *Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (S.C. App.1988). "It is always a matter of regret that a party should not have his day in court. However, [where a party has been] duly served with the summons and complaint [it is their] duty to answer the complaint ... [and they] must suffer the consequence of [their] failure to answer." *Williams v. Ray*, 232 S.C. 373, 383–84, 102 S.E.2d 368, 373 (1958);

The Defendant starts their "good cause" analysis by stating that "a Defendant acts reasonably by contacting his or her attorney and insurance agent to handle the defense of a lawsuit." See, Defendant's Motion to Set Aside Default, at p. 8. While Plaintiff agrees such conduct would be reasonable, it is precisely the conduct that Defendant failed to take being properly served with the lawsuit. It is uncontroverted that Berry, as registered agent of the corporation, neglected to provide the filed summons and complaint to either The Shelter's carrier, or to their attorney.

Defendant states that Berry assumed this was another copy of the "draft" that was previously sent to the Shelter. This argument is problematic on multiple levels. First, the paperwork sent to Berry via certified was **clearly and visibly** different than the correspondence previously sent to The Shelter. The correspondence sent on October 12, 2017 states "Enclosed please find a damages package and a *draft Complaint* which we intend to file..." *See, October 12, 2017 Correspondence*

to The Shelter (attached hereto as **Exhibit A**) (*emphasis added*). Further, there was **no Summons** contained therein. Finally, the Complaint was both **unsigned** and clearly marked with **a large red DRAFT stamp** on both the first page and the signature page.

The correspondence mailed to the Defendant on December 12, 2017 states "*enclosed for service upon you*, as registered agent of Dart Shelter, LLC, one (1) filed copy of the Amended Summons and Complaint." *See, December 12, 2017 Correspondence to The Shelter* (attached hereto as **Exhibit B**) (*emphasis added*). This correspondence contained the filed and signed Amended Summons, along with a filed and signed Amended Complaint. Even a cursory inspection of the documents would have revealed they were substantially different than the previous documents received. Finally, the letter clearly indicates that the only persons copied to the December 12, 2017 correspondence were Counsel for the Plaintiff.

The mere fact that Defendant's registered agent did not bother to read the documents does not excuse their neglect in failing to file an Answer to the action. Defendant either wholly failed to review the certified mailing sent on December 12, 2017 or simply made an assumption regarding their contents. Neither such action qualifies as reasonable conduct described by Defendant in their motion, nor should it be a basis to set aside the default. Further, the fact that Defendant was receiving correspondence from Plaintiff's Counsel after previously authorizing Plaintiff to communicate directly with their carrier to resolve the action should have put Defendant on notice that such negotiations had failed.

Moreover, Defendant's assertion that this failure to forward the documents to the carrier or counsel based upon Berry's confusion or assumption regarding the contents of Plaintiff's December 12, 2017 correspondence would be more believable had it been solely limited to this case. However, Plaintiff is informed and believes that this was not the only lawsuit which Defendant failed to Answer during this same period of time. Just six days after Plaintiff's effected service of their

[redacted]

Complaint in the present action, Berry was personally served with a Summons & Complaint in a separate, unrelated matter *Estate of W. Detyens III v. Dart Shelter, LLC*, 2017-CP-10-6425, In that action, the Defendant failed to answer until February 23, 2018. Plaintiff would contend that Berry was negligent and dilatory in providing the documents to their carrier and/or counsel in both the *Detyens* matter, and the present matter.

Regardless of the reason for this conduct, Berry as an officer of the corporation was put on notice that the action had been instituted. Once the Defendant had duly served with the summons and complaint [it is their] duty to answer the complaint ... [and they] must suffer the consequence of [their] failure to answer." See, *Williams v. Ray*, 232 S.C. 373, 383–84, 102 S.E.2d 368, 373 (1958) This Court should not allow a Defendant's willful ignorance to the status of their case to serve as "good cause" to set aside default.

c. Defendant failed to move promptly for relief or to answer the action.

It was not until March 8, 2018, nearly a month after the entry of default before Defendant filed a motion to set aside entry of default and order of default. Moreover, it has been almost 300 days since the action was instituted and the Defendants have yet to file an Answer in connection with this matter. Defendant failed to promptly move for relief, and further, has failed to promptly respond to the action.

d. Plaintiff did not violate the Rules of Professional Conduct, nor were they required to serve courtesy copies of the Complaint upon the carrier or private counsel.

Defendant argues that Plaintiff's Counsels have violated their ethical obligations under Rule 4.2 of the Rules of Professional Conduct—an issue which Plaintiff highly disputes. First, the Rules of Civil Procedure require that Plaintiff's Counsel serve the Defendant by mailing the Summons and Complaint to the Defendant directly—not to their "private attorney", nor to their insurance carrier. Secondly, Plaintiff's counsel, during settlement negotiations, was informed by Mr. Hibri on several

occasions that the insurance carrier would retain counsel for The Shelter and that the Mason Law Firm would continue only in their capacity as "private counsel" for The Shelter.

Both in their emails to Plaintiff's Counsel, and in telephone conversations with Mr. Phipps, Mr. Hibri confirmed that Mason Law Firm would not going to be representing The Shelter as defense counsel in connection with this litigation unless the carrier refused to defend the action. Further, Plaintiff served their Complaint on the Defendant per Mr. Hibri's instructions when asked, on two separate occasions, whether Mason Law Firm could accept service on behalf of The Shelter. Mason Law Firm appears to take the position that they were "wholly unaware" that Plaintiff intended to, or had actually, filed suit—a position that appears especially preposterous in light of the fact that Mr. Phipps informed Mr. Hibri of this fact during their conversation when he obtained a copy of the insurance policy from Mr. Hibri.

Based upon the representations made by Mason Law Firm to Plaintiff's Counsel regarding their role in the case moving forward, Plaintiff was left only with the option of serving Defendant as required under the rules. Defendant's gross negligence in handling the action after that point cannot be excused by now imposing a requirement that a plaintiff must send courtesy copies of pleadings to carriers and/or private counsel who have **declined to accept service on behalf of the Defendant**. Such a duty is not supported by the rules and law of this State and should not be a basis for excusing Defendant's failure to take the time to review important legal documents served upon their registered agent for service. The responsibility to forward these documents to their attorney, or to their carrier, rests solely with the Defendant—a responsibility they regrettably chose to shirk.

Finally, Plaintiff objects to the characterizations or insinuations that Plaintiff's Counsel engaged in unethical conduct to gain an unfair advantage in litigation. Plaintiff's Counsel wrote the Mason Law Firm regarding the default and again confirmed that they had served the Defendant directly per Mr. Hibri's instruction and based upon the representations that Mason Law Firm did

not intend to be involved in the defense of this action. No response from Defendant was received disputing this fact. Plaintiff did inquire as to whether Defendant would agree to mediating this matter to alleviate the necessity of a damages hearing with regard to same. To now come before this Court and insinuate that Plaintiff engaged in unfair, unethical or underhanded practices by following the express representations and directions of Defendant's attorneys is reprehensible and improper. Defendant's are simply attempting to distract the court from their own dilatory conduct in connection with this matter, and this Court should find that no good cause existed for their failure to Answer and should hold the Defendant in default.

CONCLUSION

In light of the undisputed facts and the governing precedents, Plaintiff respectfully requests that Defendant's motion to set aside entry of default and order of default be denied.

Respectfully submitted this **14th** day of **September** 2018,

By:

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COUNSEL FOR THE PLAINTIFF

Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable William H. Seals, Jr., Circuit Court Judge

Case No. 2017-CP-10-6176
Appeal No. 2019-001101

Samantha L. Antley, ... Respondent,

v.

Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar
and Preston Yelverton, Defendants,

of Whom,

Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar is the.....Appellant.

PROOF OF SERVICE

I certify that I have served the Appellant's Return in Opposition to Motion to Supplement the Record Under SCACR 60(b), on Samantha L. Antley and to other counsel of record, by emailing and depositing a copy of it in the United States Mail, postage prepaid, as follows:

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April 23, 2020

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mgc

Reply To
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Direct Dial: (843) 576-2930
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April 23, 2020

Via Facsimile
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: Samantha L. Antley v. Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar and Preston Yelverton
Civil Action No.: 2017-CP-10-6176 (Charleston)
Date of Incident: September 24, 2015
Carrier Claim No.: JY15J0673002
MGC File No.: 20205.18007
Appeal No.: 2019-001101

Dear Ms. Kitchings:

Enclosed please find the original of Appellant's Return in Opposition to Motion to Supplement the Record Under SCRCP 60(b), and the Proof of Service in the above-referenced matter. We are serving counsel of record via email and U.S. Mail.

If you have any questions, please do not hesitate to contact me.

Sincerely,
McAngus Goudelock & Courie, LLC

Helen F. Hiser

Enclosures

cc: cc: Daniel S. Slotchiver, Esq. (via Email & U.S. Mail)
Andrew J. McCumber, Esq. (via Email & U.S. Mail)
Edward L. Phipps, Esq. (via Email & U.S. Mail)
Salah H. Hibri, Esq. (via Email & U.S. Mail)
Mark A. Mason, Esq. (via Email & U.S. Mail)
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mgc | INSURANCE DEFENSE

FAX COVER SHEET

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TO: The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals

FACSIMILE NUMBER: (803) 734-1839

FROM: Mackenzie Broughton
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TOTAL # OF PAGES INCLUDING COVER: 35

DATE: 4/23/2020

RE: Samantha L. Antley v. Dart Shelter, LLC d/b/a The Shelter Kitchen & Bar and Preston Yelverton
Appeal No.: 2019-001101

COMMENTS:

SHOULD YOU HAVE ANY PROBLEMS RECEIVING THIS FACSIMILE PLEASE CONTACT US AS (843)576-2900.

McANGUS GOUDELOCK & COURIE LLC